

## Comments of the Independent Regulatory Review Commission



### State Board of Landscape Architects Regulation #16A-6110 (IRRC #2994)

### Continuing Education and Elimination of Registration without Examination

**June 5, 2013**

We submit for your consideration the following comments on the proposed rulemaking published in the April 6, 2013 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the State Board of Landscape Architects (Board) to respond to all comments received from us or any other source.

#### **1. Section 15.56. Registration without examination. – Consistency with statute; Clarity.**

In the Preamble, the Board explains the deletion of Paragraph (a)(3) as follows:

... Also included in § 15.56(a)(3) is a provision which provides for individuals who have passed the examination in another state. Although not affected by Act 24, the Board is also proposing to delete this provision because it is already covered in § 15.57(a) (relating to registration by endorsement) . . . .

While we agree with the deletion of Section 15.56 in its entirety, the remaining provisions of Section 15.57 differ from the statutory provision at 63 P.S. § 906(c). For example, Subsection 15.57(a) does not explain the statutory provision that the applicant must establish that their qualifications from the other state are “. . . at least equal to the standards of this Commonwealth existing at that time.” We also question whether Subsection 15.57(c) is consistent with 63 P.S. § 906(c), which conditionally allows the Board to register and license an applicant without examination. Therefore, we ask the Board to review all of Section 15.57 with the statutory provision at 63 P.S. § 906(c) and either amend the regulation as necessary to reflect the statute or explain how Section 15.57 is consistent with the Landscape Architects’ Registration Law.

#### **2. Section 15.72. Requirement for biennial renewal. – Consistency with statute; Implementation procedure; Reasonableness.**

The increase of continuing education hours from 10 hours to 24 hours implements Act 24 of 2009 (Act 24), which also gave the Board discretion on when to implement this increase. Also, under 63 P.S. § 909.1(e) the Board must “inform licensees of the continuing education requirement prior to the renewal period when continuing education is required.”

The actual biennial period in which licensees must comply is not yet officially established in regulation. As of the date of these comments the biennial period commencing June 1, 2013 has already begun. Subsection (a), which implements the new requirement for 24 clock hours of continuing education, will not become effective until a final regulation is published in the *Pennsylvania Bulletin*. Tied to these concerns is the economic impact on licensees who incur the costs, including time off from work to attend continuing education courses, which may or may not be necessary depending on the publication date of the final regulation. Therefore, we ask the Board to provide an explanation in the final regulation submittal of how the Board has sufficiently informed licensees of the new requirement for 24 hours of continuing education prior to the renewal period that requirement became effective on June 1, 2013.

### **3. Section 15.72. Requirement for biennial renewal. – Statutory authority.**

The Landscape Architects' Registration Law states that the Board:

... shall adopt, promulgate and enforce regulations **consistent with this act** establishing requirements to be met by individuals licensed as landscape architects under this act **as a condition for renewal of their licenses**...each person licensed under this act **shall be required to obtain twenty-four hours of mandatory continuing education during each two-year license period** . . . .  
63 P.S. §§ 909.1(a) and (b). (Emphasis added.)

The addition of Subsection (d) to the regulation would state:

If a licensee exceeds the required number of clock hours of continuing education in a renewal period, the licensee may carry forward a maximum of 12 continuing education clock hours into the subsequent renewal period.

By allowing licensees to carry forward credits, Subsection (d) would form the basis to allow the renewal of a license in the subsequent renewal period if the licensee completed less than the statutorily required 24 hours of mandatory continuing education **during** the subsequent renewal period. The Board should either delete Subsection (d), explain its authority under the Landscape Architects' Registration Law to allow licensees to carry forward continuing education credits, or seek amendments to the Landscape Architects' Registration Law to accommodate the carry forward of continuing education credits prior to adding this provision to its regulation.